



Verizon Communications  
1300 I Street NW, Suite 400W  
Washington, DC 20005

January 10, 2002

**Ex Parte**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W. – Portals  
Washington, DC 20554

RE: Application by Verizon-New Jersey Inc. for Authorization To Provide In-Region,  
InterLATA Services in State of New Jersey, Docket No. 01-347

Dear Ms. Salas:

The CCB staff requested the transcript from the New Jersey Board of Public Utilities Board meeting held on January 9, 2002. A copy of that transcript is enclosed. Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 01-2994.

Sincerely,

*Clint E. Odom / [Signature]*

Clint E. Odom

Enclosure

cc: A. Johns  
S. Pie

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

NEWARK, NEW JERSEY      WEDNESDAY, JANUARY 9, 2002

BOARD MEETING

ITEM 4A - TELECOMMUNICATIONS

Docket No. T001090541 - In the Matter of      the  
Consultative Report on The Application  
of Verizon-New Jersey, Inc. for FCC  
Authorization to Provide In Region,  
InterLATA Service in New Jersey.

BEFORE:    ACTING PRESIDENT CONNIE O. HUGHES  
             COMMISSIONER FREDERICK F. BUTLER  
             COMMISSIONER CAROL MURPHY

J. H. BUEHRER & ASSOCIATES  
17 Academy Street - Suite 609

Newark, New Jersey 07102  
(973) 623-1974

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PRESIDENT HUGHES: Moving on to Item 4,  
Agenda Item No. 4.

(At this point in the proceeding,  
Commissioner Murphy recused herself from this  
item.)

PRESIDENT HUGHES: Director Centrella?

MR. CENTRELLA: Good morning,  
Commissioner.

But before I begin my presentation,  
there's several motions that are outstanding that  
DAG Provost will present to you for a vote on  
before I present my presentation.

PRESIDENT HUGHES: Thank you.

MR. PROVOST: Good morning,  
Commissioners.

PRESIDENT HUGHES: Good morning.

MR. PROVOST: There are several motions,  
several of which were deferred during the course  
of the proceeding; several were filed very late  
in the proceeding after the hearing had been  
completed.

4           There are two related motions and an  
5           October 22 motion by the Public Advocate to  
6           dismiss the entire proceeding and on October 23,  
7           a motion by WorldCom for summary disposition in  
8           effect also resolving the case, and both motions  
9           asking for the Board to make findings that the  
10          relief should not be granted, that the checklist  
11          items are not met by Verizon.

12           Those motions, we believe, are  
13          inappropriate in the kind of proceeding that the  
14          Board conducted which was an investigation into  
15          whether or not Verizon was in compliance with  
16          Section 271 of the Telecommunications Act, and in  
17          which no ultimate relief is granted by the Board.

18           The ultimate relief that Verizon seeks  
19          is a ruling by the Federal Communi-cations  
20          Commission that they be permitted to provide in  
21          region interLATA telecom-munications services.

22           The Board does not have the authority  
23          under the Telecommunications Act to grant that

1 relief, so I'm recommending

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5 that you deny the motions because they are  
6 inappropriate to the type of proceeding to the  
7 investigative proceeding that we conducted.

8 To the extent that those motions raised  
9 substantive issues, we are also suggesting that  
10 those motions be treated as early filed comments  
11 that the Board could take note of in its  
12 deliberations. To the extent that those  
13 substantive issues --- let me rephrase that,  
14 those substantive issues that are germane to the  
15 proceeding will be addressed by Director  
16 Centrella when he makes his presentation on the  
17 specific checklist items.

18 So the recommendation is to deny the  
19 motion to dismiss by the Ratepayer Advocate and  
20 the motion for a summary disposition by WorldCom.

21 Those motions, I think, it's appropriate for the  
22 Board to vote on at the present time before we  
23 begin and then I'll get to the other motions, if

1                   you wish.

2                   PRESIDENT HUGHES: Okay. Any

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6                   questions?

7                   COMMISSIONER BUTLER: No questions.

8                   PRESIDENT HUGHES: Commissioner Butler?

9                   COMMISSIONER BUTLER: I will move for  
10                  approval.

11                  PRESIDENT HUGHES: I'll second.

12                  THE SECRETARY: On the motion to approve  
13                  the recommendation of Deputy Attorney General  
14                  Provost, Commissioner Butler?

15                  COMMISSIONER BUTLER: Yes.

16                  THE SECRETARY: President Hughes?

17                  PRESIDENT HUGHES: Yes.

18                  MR. PROVOST: There are also two related  
19                  motions to strike portions of testimony on  
20                  October 23. Verizon filed a motion to strike  
21                  portions of the testimony of AT&T, the Ratepayer  
22                  Advocate, WorldCom, ATX Licensing, the New Jersey  
23                  Cable Tele-communications Association and the

1 Communication Workers of America.

2 In response to the motion on

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6 November 2, WorldCom also filed a cross-motion to  
7 strike portions of the Verizon testimony.

8 Basically, the recommendation there is to deny  
9 both motions. The objective in our proceeding  
10 was to create a full and complete record and my  
11 recommendation is that you allow all of that  
12 information to remain in the record.

13 Obviously, the Board will accord that  
14 information whatever weight it feels is  
15 appropriate. I would make note of one fact.  
16 Part of Verizon's motion was based on its view  
17 that the issues related to the public interest  
18 are not appropriate for Board consideration in  
19 this proceeding.

20 I would suggest to you that that is not the case  
21 and Director Centrella will address that item  
22 more completely, so the recommendation there is  
23 not to strike. It is to deny the motions to

1 strike and I would appreciate any questions that  
2 you may have about that.

3 And I would ask that you vote on that at  
4 this time.

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8 PRESIDENT HUGHES: Any questions?

9 COMMISSIONER BUTLER: I have no  
10 questions. I will move for approval.

11 PRESIDENT HUGHES: I'll second.

12 THE SECRETARY: On the motion to approve  
13 the recommendation of Deputy Attorney General  
14 Provost, Commissioner Butler?

15 COMMISSIONER BUTLER: Yes.

16 THE SECRETARY: President Hughes?

17 PRESIDENT HUGHES: Yes.

18 (Commissioner Murphy recused herself  
19 from this vote.)

20 (Whereupon, the recommendation was  
21 approved.)

22 MR. PROVOST: On November 27th following  
23 the Board's Decision in the Verizon Unbundled

1 Network Element Proceeding, WorldCom filed a  
2 motion requesting that the Board allow the  
3 parties to file supplemental testimony based upon  
4 that Decision in the UNE case.

5 The argument was that based on changed  
6 circumstances resulting from that  
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10 UNE Decision, WorldCom with the support of  
11 several parties believed that there should  
12 be a delay in this proceeding to allow the  
13 parties to review both the summary Decision and  
14 Order in the Final Order that the Board is about  
15 to release and then to submit additional  
16 testimony following the review of those Orders  
17 and following experience in the marketplace based  
18 on those new UNE rates, terms and conditions.

19 I recommend that you deny that motion.  
20 The record in the 271 proceeding in and of itself  
21 is complete in my view and I believe in Staff's  
22 view. Additional information based upon that  
23 which may be in the Final UNE Order will not have

1 any material bearing on the decision you might  
2 reach on the merits of compliance with the 271  
3 checklist items, and additional filed testimony  
4 is not, in my view, necessary for your decision  
5 in this case.

6 The parties, of course, are free to use  
7 any additional information or any arguments that  
8 they made develop based on  
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12 the UNE Decision that you make. They're free to  
13 file comments with the Federal  
14 Telecommunications Commission on the Verizon  
15 Petition for 271 relief. So in effect, we are  
16 not denying all of the relief to the parties.

17 But in this case, in this --- with  
18 regard to this motion, we are recommending that  
19 you deny.

20 PRESIDENT HUGHES: Questions?

21 COMMISSIONER BUTLER: No questions. I  
22 move for approval.

23 PRESIDENT HUGHES: I'll second.

1 THE SECRETARY: On the motion to approve  
2 the recommendation of Deputy Attorney General  
3 Provost, Commissioner Butler?

4 COMMISSIONER BUTLER: Yes.

5 THE SECRETARY: President Hughes?

6 PRESIDENT HUGHES: Yes.

7 (Commissioner Murphy recused herself  
8 from this vote.)

9 (Whereupon, the recommendation was  
10 approved.)

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14 MR. PROVOST: Commissioners, on November  
15 29th, the ConEdison Telecommuni-cations  
16 affiliates in New Jersey filed an Order to  
17 present limited comments on the issue of access  
18 to dark fiber.

19 My recommendation is that you deny that  
20 motion. I agree with the comments of Verizon  
21 that to admit these comments into the record in  
22 view of the late timing of this filing would be  
23 prejudicial and I recommend that you deny the

1 motion for limited intervention to file those  
2 dark fiber comments.

3 I will make note of the fact that dark  
4 fiber is one of the issues that Director  
5 Centrella will address and so, therefore, I don't  
6 believe the comments of ConEdison will not in  
7 effect be heard in view of the fact that we are  
8 addressing the issues of dark fiber in the  
9 recommen-dation to you this morning. So, I am  
10 recommending that you deny that motion for  
11 limited intervention.

12 PRESIDENT HUGHES: Any questions?  
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16 COMMISSIONER BUTLER: Yes, just one  
17 quick question. Mr. Provost, when was the motion  
18 filed?

19 MR. PROVOST: That motion was filed on  
20 November 29th.

21 COMMISSIONER BUTLER: Okay.

22 MR. PROVOST: Well, almost three weeks  
23 after the completion of the hearings and two

1 months after we filed --- after the Board reached  
2 its Decision on the Procedural Order and the  
3 schedule for filed intervention motions.

4 COMMISSIONER BUTLER: Okay. I'll move  
5 for approval.

6 PRESIDENT HUGHES: Second.

7 THE SECRETARY: On the motion to approve  
8 the recommendations of Deputy Attorney General  
9 Provost, Commissioner Butler?

10 COMMISSIONER BUTLER: Yes.

11 THE SECRETARY: President Hughes?

12 PRESIDENT HUGHES: Yes.

13 (Commissioner Murphy recused herself  
14 from this vote.)

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MR. PROVOST: Finally, on December 5th,  
Metropolitan Telecommunications filed a motion to  
compel a more complete response to a transcript  
request that it had made during the proceeding.  
Staff and I have reviewed the motion and reviewed  
the response to the transcript request and we

1 simply believe that the response of Verizon was  
2 in fact responsive to the transcript request and  
3 we're recommending that you deny the motion.

4 COMMISSIONER BUTLER: Move for approval.

5 PRESIDENT HUGHES: Any questions?

6 COMMISSIONER BUTLER: No, but I move for  
7 approval.

8 PRESIDENT HUGHES: I'll second.

9 THE SECRETARY: On the motion to approve  
10 the recommendation of Attorney General Provost,  
11 Commissioner Butler?

12 COMMISSIONER BUTLER: Yes.

13 THE SECRETARY: President Hughes?

14 PRESIDENT HUGHES: Yes.

15 (Commissioner Murphy recused  
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19 herself from this vote.)

20 (Whereupon, the recommendation was  
21 approved.)

22 MR. PROVOST: That completes the  
23 motions. Thank you.

PRESIDENT HUGHES: Thank you, Director Centrella.

MR. CENTRELLA: On September 5th, 2001, Verizon-New Jersey filed information with the Board in support of its asserted compliance with the requirements of Section 271 of the Telecommunications Act of 1996.

According to Verizon, the information in the filing would allow the Board to review Verizon's compliance with the Act's 14-point competitive checklist set forth in Section 271 (c)(2)(B) and verify its compliance to the Federal Communications Commission when Verizon seeks approval from the FCC to provide long-distance services in New Jersey.

In accordance with the Procedural Order  
dated September 27, 2001, and

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subsequently modified, the Board received in addition to Verizon's filing, comments and testimony of several interested parties,

1 responses to data requests, briefs and reply  
2 briefs. The Board also held seven days of  
3 hearings.

4 On December 20th, 2001, Verizon filed a  
5 formal application with the FCC. The FCC set  
6 forth a schedule which allows the Board and other  
7 interested parties to submit comments no later  
8 than January 14th, 2002.

9 Before I get into the details of the  
10 filing, I would like to discuss the background  
11 leading up to this point. In a July 1998 report,  
12 the Board found the operations support systems  
13 was the single most important barrier to local  
14 telephone competition in New Jersey. Operations  
15 support systems are the computer systems that  
16 facilitate customer switching.

17 In February 2000, the Board retained  
18 KPMG Consulting to undertake a comprehensive  
19 review of the operational  
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23 support systems of Verizon to ensure that

1 competitors were able to order services for its  
2 customers in an open and non-discriminatory  
3 manner.

4 KPMG examined every aspect of the CLEC  
5 ordering and provisioning process using military  
6 style testing, which required Verizon to achieve  
7 a passing mark on each of the 536 test points,  
8 without exceptions or observations.

9 New Jersey is the first state to require  
10 this 100 percent compliance standard.

11 Another issue raised in the 1998 report  
12 was access to Verizon's network. The Board has  
13 addressed competitors' access to the parts of the  
14 telephone network that facilitate their ability  
15 to service customers, such as facilities,  
16 computer systems and Director Assistance data  
17 base. These are known as unbundled work  
18 elements.

19 The Board has adopted a package of  
20 products and services, including access to

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22 the unbundled network element platform or UNE-P,  
23 which provides the network components on a

1 bundled basis, giving competitors the incentive  
2 to enter the local telephone market in New  
3 Jersey.

4 The Board has also recently set new  
5 unbundled network element rates that will ensure  
6 the CLECs can lease portions of the Verizon  
7 network at prices that will enable them to enter  
8 the market.

9 In the November 20, 2001 Decision, which  
10 became effective on December 17, 2001, the Board  
11 cut the rates of the components of the UNE-  
12 Platform by over 40 percent, answering the  
13 complaints from CLECs that New Jersey UNE rates  
14 were a bar to entry into the State.

15 We now have the lowest rates in the  
16 region and are among the lowest in the country.

17 In May 2000, the Board adopted the New  
18 Jersey Carrier-to-Carrier guidelines which  
19 provide a comprehensive set of performance  
20 measurements, standards and  
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1 reports applicable to wholesale service provided  
2 by Verizon-New Jersey.

3 In October of 2001, the metrics were  
4 provided with the addition of several advanced  
5 services metrics, which were the result of a  
6 collaborative agreement between Staff, Verizon,  
7 and several CLECs here in New Jersey.

8 In October of last year, the Board  
9 approved a new incentive plan, which is a  
10 necessary component for stimulating competition  
11 because it ensures that Verizon will treat CLECs  
12 and their customers as well as they treat itself  
13 and its customers. The metrics adopted by this  
14 Board, and the penalties that will be assessed  
15 for failure to meet those metrics through this  
16 incentive plan are intended to ensure that  
17 Verizon gives a high level of service to its  
18 competitors and to prevent backsliding after the  
19 Company begins providing long-distance service.

20 Finally, the Board has approved a  
21 collocation stipulation that will provide  
22

1  
2 CLECs an assurance of reasonable terms and  
3 conditions by which they can install their  
4 interconnection equipment in Verizon's Central  
5 Offices. The Stipulation, which also was the  
6 result of negotiations between the parties, is  
7 another important step in the process of  
8 stimulating competition.

9 With respect to the filing itself,  
10 Section 271 of the Telecommunications Act states  
11 that the Federal Communications Commission will  
12 consult with the Board, "in order to verify the  
13 compliance of (Verizon) with the requirements of  
14 subsection (c)" of Section 271. That subsection  
15 requires the Board to verify that there are  
16 either facilities based competitors in the State  
17 or that no party has requested access. Verizon's  
18 application is a "Track A" application that  
19 asserts there are one or more companies using  
20 either their own network facilities to provide  
21 residential or business services to their  
22 customers, or  
23

3 doing so predominantly over their own facilities  
4 or in combination with the services and  
5 facilities of others.

6 The Board is also required to verify  
7 compliance with the 14-point checklist that's  
8 contained in the Act. Those 14-points address  
9 all aspects of Verizon's ability to provide its  
10 competitors non-discriminatory access to its  
11 network at terms that are just and reasonable.

12 Several parties have argued that the  
13 Board has a statutory requirement to review the  
14 public interest as part of its review of this  
15 filing. Those parties, among them AT&T, the  
16 Ratepayer Advocate, New Jersey Cable  
17 Telecommunications Association, argue that State  
18 Law requires such a review. Verizon argues that  
19 the FCC, not the Board, is charged by the Federal  
20 Telecommunications Act with the requirement of a  
21 public interest analysis. The parties that argue  
22 that the Board is required to complete a public  
23 interest

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analysis, go on to state that the local market is not yet competitive, that there is no residential competition, that additional safeguards should be imposed now, and Verizon's long-distance authority is premature and therefore is not in the public interest.

The Ratepayer Advocate goes on to argue that Verizon does not meet its burden under Section 271 (c)(1)(A) or Track A. The Advocate argues that Verizon's assertion, with no corroborating evidence of 680 residential customers being served by CLECs either exclusively or predominantly over their own facilities, is not consistent with Track A. The Advocate concludes that this level of competition does not meet the FCC's requirement of more than a "de minimis" number of customers.

Verizon disputes these arguments by citing numerous FCC Decisions that state that there is only a requirement for the demonstration

1 of a competitor and that

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3 there is no requirement of a showing that a  
4 specific percentage of the residential market is  
5 served by facilities-based competition.

6 Verizon, as I said, has asserted that it  
7 is entitled to Track A treatment because there  
8 are carriers providing residential and business  
9 services over their own facilities in whole or in  
10 part.

11 In Staff's view, the record does show that there  
12 are carriers using both UNE-Ps at facilities-  
13 bypass that are serving that are serving business  
14 customers and several hundred residential  
15 customers through facilities-based services.

16 Based upon the standards applied by the  
17 FCC in previous 271 applications, where it ruled  
18 that no specific market share loss or specific  
19 number of competitors or a specific number of  
20 residential customer migration is necessary, it  
21 is Staff's belief that Verizon is entitled to  
22 Track A treatment under Section 271(c).  
23

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3 With respect to the 14-point checklist,  
4 I'll go through those one at a time.

5 The first of the 14 points is  
6 interconnection in accordance with Section  
7 251(c)(3) and 252(d)(1). Verizon has shown that  
8 it provides local inter-connection for the  
9 transmission and routing of telephone exchange  
10 traffic and telephone exchange access traffic, or  
11 both. Cablevision asserted that Verizon must  
12 accept traffic for interconnection at any point  
13 in the LATA. However, the FCC has previously  
14 indicated that 271 proceedings are not the  
15 appropriate forum to determine intercarrier  
16 disputes and Staff suggests that the Board does  
17 not need to determine this dispute in this  
18 proceeding.

19 That question is properly part of the  
20 Cablevision Verizon arbitration, which is the  
21 subject of Item 4B today. This record indicates  
22 that Verizon satisfies, in Staff's view, the  
23 requirements of the

4 Checklist Item 1.

5 In the area of collocation, the Act  
6 requires that Verizon provide interconnection  
7 arrangements in accordance with the requirements  
8 of Section 251(c)(6). Verizon provided evidence  
9 regarding its compliance with this item.

10 AT&T submitted testimony that criticized  
11 certain collocation rate levels and installation  
12 intervals. The collocation stipulation, approved  
13 by the Board after the testimony was filed, to  
14 which AT&T is a party, however, addresses AT&T's  
15 concerns as far as Staff is concerned, and the  
16 Board's adoption of that Stipulation allows  
17 Verizon to satisfy the collocation aspects of  
18 Checklist Item 1.

19 Checklist Item 2 includes access to  
20 UNES. The Board's November 20, 2001 directive  
21 regarding new UNE rates, and the subsequent  
22 Summary Order, which became effective on December  
23 17, 2001, addresses the UNE issues. While there

1 was a great

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5 deal of testimony and cross-examination about  
6 Verizon's intentions regarding the new UNE rates,  
7 they will now be the lawful rates in New Jersey,  
8 and they are compliant with the TELRIC guidelines  
9 prescribed by the FCC. These rates are expected  
10 to serve as a great stimulus to competition in  
11 the State.

12 Since the new rates were set after a  
13 formal proceeding and are in compliance with the  
14 TELRIC principles, Verizon is now bound by these  
15 rates. In Staff's view, these rates are, as I  
16 said, among the lowest in the country and were  
17 reduced by over 40 percent in some cases, are  
18 critical to the expansion of local competition.

19 Therefore, Staff recommends that a  
20 finding of compliance with Checklist Item 2 must  
21 be conditioned on Verizon charging no more than  
22 the new rates to all CLECs in New Jersey  
23 effective December 17, 2001. A Verizon challenge

1 of the validity or the effective date of the  
2 rates or any attempt

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4 to increase or otherwise change these rates will  
5 call into question whether modified rates would  
6 be TELRIC compliant, thus not permitting this  
7 Board, in my view, to find compliance with  
8 Checklist Item No. 2.

9 Verizon should further be required to  
10 provide to the Board by the end of business  
11 tomorrow, an Officer's Certification that these  
12 rates are being charged effective December 17,  
13 2001. Moreover, the Board should require Verizon  
14 to provide Staff copies of initial bills  
15 reflecting these new rates as soon as these bills  
16 are made available.

17 As a further precaution, to make sure  
18 that Verizon will stay in compliance with the  
19 Board's pricing requirements, I would recommend  
20 that the Board authorize Staff to require Verizon  
21 to periodically provide copies of sample bills to  
22 confirm that it is continuing to bill the new  
23 rates for its UNEs.

1 Verizon provides CLECs with the

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4 combination of an unbundled loop and unbundled  
5 local switching known as UNE-Platform and  
6 combinations of unbundled loop and interoffice  
7 facility network elements, also known as Expanded  
8 Extended Loops or EELs.

9 ATX commented on this checklist item,  
10 asserting that certain features of the Custopak  
11 Centrex system were not available to its  
12 customers. Verizon did provide evidence,  
13 however, that the assume Dial 9 feature became  
14 available in October, and that the other features  
15 ATX seeks became available in December, thus in  
16 Staff's view resolving the concerns of ATX.

17 KPMG's OSS report, as I described  
18 before, does allow the Board, in Staff's view, to  
19 determine with confidence that Verizon's ordering  
20 and provisioning systems are suitable for the  
21 tasks necessary in a competitive environment. In  
22 Staff's view, the KPMG test, as well as the  
23 initiation of the Board's incentive

4 plan, provides sufficient evidence that Verizon  
5 is providing non-discriminatory access to its  
6 OSS. Staff disagrees with parties who claim a  
7 general lack of reliability of the measures of  
8 OSS performance and also disagree with the  
9 parties that would call for more commercial  
10 testing.

11 Staff does, however, suggest that the  
12 Board set forth two conditions related to  
13 electronic billing. It is important to the  
14 continued expansion of a robust, competitive  
15 marketplace that Verizon provide reliable  
16 electronic bills to the CLECs that buy its  
17 wholesale services in order to compete. Verizon  
18 has implemented an internal quality assurance  
19 review process to ensure that its electronic  
20 bills balance internally and that they match the  
21 paper bills which KPMG found to be accurate in  
22 the OSS test, before the electronic bills are  
23 released to the CLECs.

1 This process, initially applied in

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3 Pennsylvania, was introduced in New Jersey in  
4 August 2001. As Verizon improves the software  
5 that it uses to generate these bills, Staff  
6 expects the need for this manual review and  
7 balancing process to continue to diminish.  
8 Because of the importance of this issue, however,  
9 the first condition related to OSS that Staff  
10 would recommend, is that Verizon be required to  
11 retain the manual review and balancing procedures  
12 in New Jersey until it has confirmed to Staff's  
13 satisfaction that these manual balancing  
14 procedures are not required to produce adequately  
15 balanced electronic bills for CLECs.

16 Staff would further recommend the Board  
17 condition its finding of OSS compliance on the  
18 requirement that Verizon include electronic  
19 billing metrics in the New Jersey Carrier-to-  
20 Carrier guidelines, and the New Jersey Incentive  
21 Plan, effective in the February 2002 data month,  
22 that are identical to those included in  
23 Pennsylvania.

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Specifically, electronic billing metrics for timeliness (BI-2) and accuracy (BI-3), must be included and would be in addition to the existing paper bill metrics. Verizon-New Jersey should be directed to file with the Board and serve all members of the TSFT, the Carrier-to-Carrier guidelines for these two metrics within 10 days. All exclusions, standards and report dimensions are to mirror the Pennsylvania metrics.

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In summary, with the condition that the new rates are not changed by Verizon; that Verizon file proof that the new rates are being charged effective December 17, 2001; and the addition of electronic billing metrics and incentives and a quality assurance process for electronic billing; the rates, terms and conditions and systems by which Verizon provides access, are non-discriminatory and in compliance with Checklist Item 2.

1                   The next item is non-discriminatory  
2                   access to poles, ducts,

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6                   conduits and rights-of-way.

7                   Verizon has demonstrated compliance, but  
8                   its testimony was withdrawn. There is no dispute  
9                   on this issue, and Verizon in our view satisfies  
10                  the requirements of Checklist Item 3.

11                  The fourth checklist item is local loop  
12                  transmission from the Central Office to the  
13                  customer's premises, unbundled from switching or  
14                  other services. Verizon-New Jersey provides  
15                  local loops unbundled from local switching or  
16                  other network elements.

17                  Verizon submitted testimony on its  
18                  compliance with this checklist item, and some  
19                  comments regarding Verizon-New Jersey's  
20                  performance were filed by CLECs. AT&T claimed  
21                  that Verizon-New Jersey failed to provide parity  
22                  service with respect to the intervals offered to  
23                  CLECs for "hot cut loops" and the intervals in

1 which Verizon-New jersey completed the Hot Cut.

2 The record indicates, however, that in  
3 the aggregate, the Hot Cut

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7 performance has been satisfactory and appears to  
8 be improving. XO claims that a Verizon-New  
9 Jersey policy of rejecting high capacity UNE  
10 orders on the basis that "no facilities are  
11 available" is discriminatory.

12 Staff is satisfied that this is not a  
13 checklist issue since network construction is not  
14 a UNE. XO also claims that Verizon-New Jersey  
15 refuses to convert qualifying circuits to EELs  
16 when those circuits are being provisioned using  
17 facilities that also provide special access, but  
18 there is no evidence that XO has actually  
19 encountered such a problem.

20 XO also claims that Verizon-New Jersey  
21 unreasonably imposes termination liability for  
22 converting "tariffed services to UNEs". This  
23 liability is included in Verizon's approved

1 Federal tariffs and, in Staff's view, this nor  
2 any of the other CLEC comments are a reason to  
3 find that Verizon is not in compliance with  
4 Checklist Item 4.

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7 33

8 Item 5 is unbundled local transport from  
9 the switch. The FCC has concluded that ILECs  
10 must provide interoffice transmission facilities  
11 or "transport" facilities, on an unbundled basis,  
12 to requesting telecommunications carriers.  
13 Verizon submitted testimony on its provision of  
14 unbundled trunks and there is no credible  
15 evidence in the record refuting that claim.

16 XO discussed the issue in its initial  
17 brief, but did not point to any specific concern  
18 or provide any evidence of a problem. Also, in a  
19 November 29 letter, Consolidated Edison filed  
20 comments regarding Verizon's dark fiber terms and  
21 conditions in Rhode Island.

22 The Board has denied the Consolidated  
23 Edison request for limited intervention.

1           Nonetheless, the December 17, 2001 UNE Order  
2           addresses dark fiber and, therefore, disposes of  
3           those concerns. These arguments, therefore, do  
4           not provide a basis for finding that

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Verizon does not provide unbundled trunks in  
accordance with Checklist Item 5.

Checklist Item 6 requires Verizon to  
provide CLECs with unbundled local switching.  
Verizon-New Jersey has shown that it provides:

(1) Line-side and trunk-side facilities;  
(2) Basic switching functions; (3) Vertical  
features; (4) Customized routing; (5) Shared  
trunk ports;  
(6) Unbundled tandem switching and  
(7) Usage information for billing exchange  
access; and usage information for billing  
reciprocal compensation.

No party provided evidence that Verizon  
doesn't meet this checklist item.

Checklist Item 7 is non-discriminatory

1 access to 9-1-1 and E-9-1-1 services, Directory  
2 Assistance and Operator call completion services.

3 In its checklist declaration, Verizon-New Jersey  
4 described how it met this requirement, and no  
5 party contended otherwise.

6 Based on the record, Verizon is in

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8 compliance with Checklist Item 7.

9 Checklist Item 8 is White Pages  
10 Directory Listings. Verizon submitted testimony  
11 regarding its compliance with the item and the  
12 manner in which it provides CLECs and resellers  
13 access to Directory listings. Verizon-New Jersey  
14 states that it has established procedures that  
15 ensure that the Directory listings of CLEC  
16 customers are included in Verizon-New Jersey's  
17 data base on an accurate, reliable, and non-  
18 discriminatory basis.

19 XO raised issues regarding White Pages  
20 Directory Listings, however, no credible evidence  
21 was presented that Verizon was not in compliance  
22 with this checklist item. The accuracy of  
23 Verizon's provisioning of CLEC Directory listing

1 orders was also confirmed as satisfactory by  
2 KPMG.

3 The record indicates, in Staff's  
4 opinion, that Verizon-New Jersey satisfies the  
5 requirements of Checklist Item 8.

6 The next four are checklist items  
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9 36

10 which Verizon provided evidence of compliance,  
11 that no party challenged. Item 9 requires non-  
12 discriminatory access to telephone numbers; Item  
13 10 is access to data bases and signaling for call  
14 routing and completion; Item 11 is local number  
15 portability, which permits customers to change  
16 carriers without changing numbers; and Item 12 is  
17 local dialing parity.

18 Verizon's testimony on these items was  
19 not challenged and Verizon has complied with the  
20 checklist for each item.

21 Item 13 is reciprocal compensation  
22 arrangements in accordance with Section 252(d)(2)  
23 of the Telecom Act. Verizon submitted testimony

1 on its compliance with this item, based on the  
2 agreements it has in place with CLECs. Several  
3 parties challenged Verizon's compliance with this  
4 item, raising contract and billing disputes  
5 related to reciprocal compensation payments for  
6 internet-bound traffic.

7 The FCC has previously held that

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10 37

11 these types of disputes are proper for  
12 consideration in arbitrations and dispute  
13 resolution, not 271 compliance reviews. Staff  
14 agrees. One party actually resolved this issue  
15 through arbitration. Two others are currently  
16 before the Office of Administrative Law. Verizon  
17 has, in Staff's view, satisfied the requirements  
18 of Checklist Item 13.

19 The final checklist item is the  
20 requirement that Verizon offer for resale all of  
21 the service it provides at retail to subscribers  
22 that are not telecommuni-cations carriers.  
23 Verizon provided testimony that it resells CLECs

1 identical services, including DSL, to which it  
2 retails to its own customers. No party commented  
3 or disputed Verizon's satisfaction of this  
4 checklist item. Therefore, Verizon has met  
5 Checklist Item 14.

6 The Board's report to the FCC should  
7 include a discussion of the metrics included in  
8 the New Jersey Carrier-to-

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11 38

12 Carrier Guidelines Performance Standards and  
13 reports, which establish performance measures and  
14 standards to evaluate the performance of Verizon  
15 OSS and other similar services.

16 In addition, the incentive plan,  
17 discussed earlier, provides Verizon with a strong  
18 incentive to adhere to the carrier-to-carrier  
19 guidelines and the substantial payments were  
20 provided by the incentive plan increase with the  
21 severity and duration of a "miss" and the number  
22 of CLECs impacted.

23 There is no cap on Verizon-New Jersey's

1 liability under the incentive plan. Both the  
2 guidelines and incentive plan are as strong or  
3 stronger than others in states where 271 approval  
4 has been granted.

5 With respect to the public interest,  
6 Staff does agree that a review of the public  
7 interest by the Board is appropriate. Staff does  
8 not agree, however, with the parties who argue  
9 that

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12 39

13 Verizon's entry into the long-distance market  
14 should be denied or delayed at this time because  
15 of the low level of residential market shares of  
16 CLECs.

17 This Board has removed any real or  
18 perceived barrier to entry to this market through  
19 the many decisions I have articulated today.  
20 Verizon does meet, in Staff's opinion, standards  
21 set forth in the Act and the further requirements  
22 of the FCC. The Congress nor the FCC has ever  
23 set any minimum market share percentage or an

1 absolute number of CLEC residential customer  
2 lines requirement for Bell Operating Companies  
3 entering into the long-distance market.

4 The fact is, competitors are here, they  
5 are providing service, they are providing  
6 service, the service may be less than the  
7 numbers, maybe less than we had hoped for, but  
8 most importantly, they can expand into the  
9 residential market if they choose to do so.

10 It is Staff's opinion that in

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13 40

14 conjunction with the Board's previous decisions,  
15 the public interest is best served at this time  
16 by allowing Verizon into the long-distance  
17 market, to create more competition, hopefully  
18 putting downward pressure on rates in all markets  
19 in New Jersey.

20 Finally, Staff does not agree that  
21 additional safeguards are necessary as a  
22 prerequisite to Verizon long-distance authority.

23 Many of the proposed safeguards are unnecessary

1 and at least two access charge reductions and  
2 structural safeguards are currently under  
3 consideration in the pending Verizon PAR II case.

4 Those issues would, therefore, be addressed in  
5 due course.

6 In conclusion, Verizon-New Jersey has  
7 shown that there are competitors providing some  
8 level of service for both residential and  
9 business customers, and in Staff's opinion, the  
10 Board can expect more competition as we move  
11 forward due to this and other pro-competitive  
12 decisions. If.

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15 41

16 Verizon implements the conditions described  
17 herein, in Staff's opinion, it has demonstrated  
18 compliance with Section 271.

19 Staff, therefore, recommends that the  
20 Board find in favor of Verizon's application,  
21 inclusive of the conditions related to Checklist  
22 Item 2 described previously.

23 Staff further recommends that the Board

1 adopt the findings of each checklist item I have  
2 described and approve the draft consultative  
3 report for submission to the FCC and release the  
4 report to the public on January 14, 2002.

5 PRESIDENT HUGHES: Director Centrella, I  
6 have a couple of questions with respect to the  
7 OSS test. What was the length of the test period  
8 in New Jersey? The length of the test period for  
9 OSS in New Jersey?

10 MR. CENTRELLA: It began in February  
11 2000 and it concluded in August of 2001. So, it  
12 was approximately 18 or  
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15 42

16 19 months.

17 PRESIDENT HUGHES: How does that compare  
18 to the length of the testing in other states?

19 MR. CENTRELLA: Similar. I think the  
20 test that I am aware of in New York was about the  
21 same time length and in Pennsylvania, it was  
22 about the same time length. Some other states  
23 that were granted the long-distance authority

utilize the tests from other states as demonstration that their systems work.

For example, Massachusetts utilized the New York test and I believe in the midwest a couple of states used the test that was utilized in Texas. So we are --- we were among the lengthiest or about the same as the others in this region.

PRESIDENT HUGHES: Were there any --- in the tests of any of the other states, were there any instances where there were failures, that in New Jersey we had a more rigorous test?

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43

MR. CENTRELLA: Yes.

One of the important things that should be noted is that there was a requirement of zero defects here in New Jersey. The other states that were granted long distance authority -- the other states that were granted long distance authority did have some open exceptions or observations that were outstanding at the time of the filing with the FCC. We required Verizon not

1 to file anything until the test was complete and  
2 that the test would have zero defects.

3 I stand corrected on the testing  
4 timelines. I apologize.

5 New York was 13 months, Pennsylvania was  
6 24 months. Excuse me.

7 PRESIDENT HUGHES: What about the  
8 failure that occurred in New York?

9 MR. CENTRELLA: That happened Post-271  
10 Entry. It was a complete system failure. I  
11 don't know the details of it, but Verizon had to  
12 retool its entire OSS in New York. They were  
13 fined heavily, 20,  
14 \$30 million and they got it up and running. To  
15 the best of my knowledge, it's working relatively  
16 well now.

17 In response to your question before, we  
18 did require several other things that other  
19 states did not. We required line-sharing  
20 testing, which was the first test here in New  
21 Jersey. New Jersey was the first state to test  
22 line sharing. We required, I think what was most  
23 important was a metrics change control process

1 where there were concerns or problems found with  
2 metrics, the information was given out to the  
3 CLEC community immediately and Verizon would fix  
4 the problem as soon as it was found.

5 One of the issues that caused I think a  
6 "no" vote in Pennsylvania, the Commission there,  
7 was the fact that there was no metrics change  
8 control process in place.

9 So we initiated one here, and I expect  
10 that it will probably be initiated throughout the  
11 Verizon region based on

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44

15 what we did here in New Jersey.

16 PRESIDENT HUGHES: Turning to the UNE  
17 rates, you had mentioned that New Jersey's new  
18 UNE rates compare very favorably to the Verizon  
19 region in other parts of the country.

20 Can you give me some examples?

21 MR. CENTRELLA: Well, as far as I know,  
22 the rates in New Jersey are the lowest in the  
23 Verizon region here in the Northeast, 13 states,

1 I guess, that make the Northeast.

2 I have some data from July of last year  
3 that were only two states that had lower rates  
4 than us, in the Midwest. So we're No. 48 or No.  
5 47 or No. 3, I guess, depending on how you count.

6 PRESIDENT HUGHES: Are there any other  
7 states that do not have a capping incentive plan  
8 to make sure that Verizon treats CLECs the same  
9 as it treats itself and other customers?

10 MR. CENTRELLA: I'm aware of no rate  
11 that has no cap.

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45

15 The FCC, in approving other states,  
16 required that the liability be to the Bell  
17 Operating Company. In New Jersey, if we were to  
18 calculate that number, it would have been in the  
19 50 to \$60 million range. Our incentive plan has  
20 no absolute cap. It can go the sky is the limit,  
21 if you will.

22 PRESIDENT HUGHES: They're self-  
23 enforcing?

1           MR. CENTRELLA: They are self-executing,  
2   and that is one of the requirements of the FCC  
3   for what they describe as a performance assurance  
4   plan. Ours is an incentive plan here in New  
5   Jersey that they require for Bell Operating  
6   Companies.

7           PRESIDENT HUGHES: How many CLECs have  
8   applied for and how many have received approval  
9   to participate in the marketplace in New Jersey?

10          MR. CENTRELLA: Up to this point, I'm  
11   not sure how many have applied, but the Board has  
12   approved 110. We have seven  
13   more on the agenda today, so after today,  
14   theoretically it would be 117 that have been  
15   approved.

16          PRESIDENT HUGHES: Just one last  
17   question at this point in time.

18          What happened in the other states vis-a-  
19   vis market penetration of the CLECs when Verizon  
20   made its 271 Filing with the FCC? Can you give  
21   me an example or two?

22          MR. CENTRELLA: Yes, I have some  
23   information.

1           The information I have for at least  
2   three other states, New York was the first state  
3   to be granted long distance authority. At the  
4   time it filed with the FCC, my understanding is  
5   there was about 9 percent CLEC penetration.

6           PRESIDENT HUGHES: Is that residential  
7   and business?

8           MR. CENTRELLA: That's a combination of  
9   both, yes.

10          PRESIDENT HUGHES: And business counts  
11   as one, and the same, residential counts for one?

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47

15          MR. CENTRELLA: Yes, a line is a line as  
16   far as the FCC counts these.

17          As of December 31st, 2000, the most  
18   currently publicly available information that I  
19   have, that penetration rate went from 9 percent  
20   to 20 percent.

21          In Texas, in April of 2000, when they  
22   filed, it was approximately 8 percent. At the  
23   end of 2000, it went to 12 percent.

1           In Kansas, at the time they filed in  
2   October of 2000, they had about 9 percent. In  
3   just a few months, it went to 13 percent.

4           Those are the states that I have data  
5 on, because the rest of the states either filed  
6 or were approved in the year 2001 and beyond. I  
7 don't have data for 2001.

8           PRESIDENT HUGHES: Commissioner Butler,  
9   do you have questions?

10 COMMISSIONER BUTLER: Yes, I do.

11 Please bring Mr. Chappa back. I have a  
12 question on OSS testing.

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15 48

16 I think you mentioned earlier that no  
17 state has as vigorously tested OSS as New Jersey  
18 has, and I agree with that observation.

19           There was some statistic that we talked  
20   about at Staff briefing and it had to do with the  
21   amount of orders that would go through the  
22   system, and that an estimate of, what was it, 350  
23   percent of normal procedures were tested.  I

1 mean, one of the arguments that's made is that  
2 well, OSS was tested but it was tested in  
3 isolation, it was not tested in actual operation,  
4 and why don't we wait six months to a year and  
5 see how the system works, if there actually is  
6 competition and if there is actual orders coming  
7 through? It's kind of like saying we bought the  
8 best fire alarm system and we had it tested by  
9 the authorities, now let's set fire to the house  
10 and see if it works.

11 Can you comment on the level of that  
12 volume, volume metric testing?

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15 49

16 MR. CHAPPA: KPMG requested forecasts  
17 from the CLECs, combined them, ran the volume  
18 tests based on those estimates, and then tested,  
19 additionally tested the systems at a stress level  
20 which they considered 150 percent over the  
21 estimates, and this was run for 24 hours. In  
22 addition, they also hit the system with a 6-hour  
23 test at 250 percent of the estimates.

1           The system did just fine.

2           I know there has been some comment that  
3   the testing was not end-to-end, that is that it  
4   didn't go all the way through to provisioning.  
5   This is similar to the testing in the other  
6   states. The reason for that is that once we let  
7   the testing go into the actual provisioning, it  
8   interferes with the orders for real customers.  
9   It forces trunk rolls, it forces the commitment  
10  of Verizon technicians to essentially artificial  
11  orders.

12          So the test here in New Jersey was  
13  conducted similarly to those in New York and  
14  Pennsylvania, and the system never burped at 250  
15  percent.

16          COMMISSIONER BUTLER: Thank you.

17          Now, to be fair, there have been  
18  problems with OSS in other states.

19          MR. CHAPPA: Sure.

20          COMMISSIONER BUTLER: Even though the  
21  testing was accomplished there and probably the  
22  best, most publicized one was in New York.

23          We're not going to walk away from this

1 OSS issue. If this approval is granted by the  
2 FCC and real competition does begin and if there  
3 are problems, we will intervene and cause those  
4 problems to be corrected. It doesn't seem to  
5 have affected New York terribly, because they  
6 went from 9 percent penetration by those CLECs to  
7 20 percent.

8 So even with that disaster, the CLECs  
9 have more than doubled their percentage of the  
10 market.

11 MR. CHAPPA: What happened in New  
12

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14 51

15 York, there was a system failure. The system was  
16 retooled after that. The whole cause and effect  
17 up in New York has never really been established.

18 So the effort was to just retool the thing,  
19 which Verizon has done. It's worked fine ever  
20 since.

21 We in New Jersey, as well as those in  
22 the other states such as Pennsylvania, also have  
23 the benefit of that experience.

1 COMMISSIONER BUTLER: Thank you.

2 My second question relates to the UNE  
3 rates that we set, and there was some discussion  
4 by Director Centrella about whether the UNE case  
5 rates are sufficiently in place and that there's  
6 any jeopardy that they could be, that the  
7 assumption that they are an integral part of this  
8 and are an integral part of our expectation that  
9 competition will increase, that they may face the  
10 challenge, and I guess my question is: Are you  
11 assured that in the wording that we have that we  
12 will vote on today in the

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15 52

16 order that there is protection for those rates  
17 remaining in place or if that those rates do not  
18 remain in place, the FCC has notified that those  
19 conditions that we voted on are no longer in  
20 evidence?

21 MR. CENTRELLA: Yes. I think as I  
22 described before and as I will suggest, it will  
23 be incorporated in the Consultative Report that

1 the Board's Decision for Checklist Item 2,  
2 compliances directly related to the rates of --  
3 were put in place by this Board on December 17th  
4 and evidence of assurance from Verizon that, in  
5 fact, they are being charged.

6 The language that is in there is clear  
7 that if there is a challenge to those rates or  
8 somehow are increased in any way, that that would  
9 not allow the Board to make a positive  
10 recommendation on Checklist Item No. 2.

11 COMMISSIONER BUTLER: And my third  
12 question relates to these interconnection  
13 agreements. Part of the proof of the competitive  
14 entry is the citation of the

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53

18 number of interconnection agreements. Some  
19 suggestions have been made that many of those  
20 interconnection agreements are expired or  
21 expiring and that they are --- or they're held by  
22 carriers that are not active in this State.

23

Would you comment on that issue?

1                   MR. CENTRELLA: Yes, I checked the  
2   number of interconnection agreements that the  
3   Board has approved over the years and it's in  
4   excess of 170. Not all of them are in effect  
5   today, there is no dispute about that, but there  
6   are interconnection agreements that are in  
7   effect. There are interconnection agreements  
8   that other carriers could opt into and it allows  
9   for any carrier to either negotiate specific  
10  conditions in terms that it feels are necessary  
11  for its business plan or it could go to the  
12  interconnection agreements that the Board has  
13  already approved and are in effect today. That  
14  would allow them to save some time and to opt  
15  into some agreements that are already in place.

16                  To the best of my recollection, up to  
17  this point there have been seven arbitration  
18  pieces before the Board. One will be before you  
19  as 4B today. It would be the seventh one over  
20  the last five years. So, I would say it's pretty  
21  safe to say that most agreements are negotiated.  
22  There are some that are obviously disputed and  
23  they go to arbitration, but generally speaking

1 have interconnection agreements in place.

2 Most of them are negotiated. And even  
3 the ones that are not negotiated are certainly  
4 able to be opted into, if a carrier chooses to do  
5 so.

6 COMMISSIONER BUTLER: When it's  
7 appropriate, I have some other comments to make  
8 about the case.

9 PRESIDENT HUGHES: Okay. I do also.

10 COMMISSIONER BUTLER: Go ahead.

11 PRESIDENT HUGHES: Let's make a motion  
12 and then we could discuss it.

13 COMMISSIONER BUTLER: Motion first  
14 and then comments?

15 PRESIDENT HUGHES: Yes.

16 COMMISSIONER BUTLER: Okay. I will move  
17 to approve, move for approval of the  
18 recommendations of Staff.

19 PRESIDENT HUGHES: And I'll second that  
20 motion.

21 Before you call for the vote, we both  
22 want to make some comments.

23 THE SECRETARY: Okay.

1                   PRESIDENT HUGHES: I think it is  
2 important to emphasize that the Board's past  
3 actions that included the establishment of very  
4 low UNE rates and the requirement of 100 percent  
5 compliance with the testing of OSS removed  
6 barriers to CLECs entering the market in New  
7 Jersey.

8                   In addition, the carrier-to-carrier  
9 guidelines and the self-enforcing incentives  
10 actions that the Board took to ensure fairness in  
11 the marketplace also were appropriate actions.  
12 At the same time, I believe it is essential that

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56

16 Verizon met all the conditions the Staff are  
17 recommending are identified, that includes the  
18 implementation and documentation of the UNE rates  
19 and in particular, I believe, are extremely  
20 important.

21                   In addition, the retaining of manual  
22 review and balancing of the bills and the  
23 inclusion of the electronic billing metrics in

1 the carrier-to-carrier guideline and in the  
2 incentive plan, I believe that the Board has  
3 taken all of the appropriate actions to  
4 facilitate competition.

5           There are other factors that may cause  
6 CLECs to enter or not enter a market in New  
7 Jersey, which are beyond the Board's purview,  
8 such as the business plan and the state of the  
9 economy and the movement towards merger, but I  
10 certainly believe that the Board has put in place  
11 all of the appropriate actions to facilitate  
12 competition, which is the Board's role.

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57

16           Commissioner Butler?

17           COMMISSIONER BUTLER: Thank you. Thank  
18 you, President Hughes.

19           I want to preface my remarks by  
20 reminding some of you who were at my swearing in  
21 of my comments about my Italian heritage.  
22 Despite my last name, I am half Italian. And  
23 that brings good things to me and things --- and

1 brings some other things to me that my wife and  
2 my close non-Roman relatives call "my Italian  
3 temper".

4 And I am going to apologize in advance  
5 if my Italian temper gets activated today,  
6 because I have some very strong feelings about  
7 this case. I am not happy at all about this case  
8 and this docket and the way it has proceeded, and  
9 it is not simply for the reason you may think and  
10 that is the accelerated way in which Verizon has  
11 caused this Board to deal with this issue.

12 We will come back to Verizon in a  
13 moment. I am frankly angry at all the

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16

58

17 parties to this case. I am appalled at the  
18 rampant self-interest exhibited by all of the  
19 parties and what I feel is the accompanying  
20 disregard for the ratepayers and telephone  
21 customers of this State.

22 Perhaps Congress set up the system when  
23 in 1996 they established a procedure that boiled

1 down to its simplest, if one group wanted to go -  
2 -- is isolated to fish in this pond and another  
3 group is isolated to fish over here and if they  
4 want to fish in each other's ponds, one group has  
5 the veto power over the other one by its own  
6 actions.

7 And those of you who are familiar with  
8 the telecom policy know what I'm talking about.  
9 Those of you who are not familiar, which is where  
10 I was 2-1/2 years ago, it would take days for me  
11 to explain all that, so we will leave it at that.

12 Basically what one view has is that if  
13 the CLECs decide to stay out of the local market  
14 of Verizon, they can claim there is no local  
15 competition and

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59

19 use that as an excuse to say, "Deny Verizon's  
20 entry into long-distance." Another view  
21 has it that it is Verizon who is stubbornly  
22 refusing to yield to the reality of the  
23 competitive mandate and attempts at every turn to

1 thwart entry of competitors into the local  
2 market. As usual, the truth lies somewhere  
3 inbetween.

4           This Board has heard all kinds of  
5 complaints from the competitors as to why they  
6 have been hindered in competing in the local  
7 market. We addressed and Director Centrella has  
8 gone through the list of arguments why  
9 competitors were hindered from entering the local  
10 market. In my mind, we fixed all of those  
11 problems and still other excuses have been  
12 offered.

13           The testing as certified by the OSS is  
14 better than any other state has tested it. We  
15 streamlined the entry process. We set the lowest  
16 inter-connection rates in the region and probably  
17 the third lowest in the country

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60

21 and still the calls for delay continue and the  
22 excuses multiply. The only excuse we haven't  
23 heard is the dog ate my interconnection

1 agreement. Well, the time has come to fish or  
2 cut bait.

3 Let me turn to Verizon now.

4 This Company needs to know that I am  
5 truly outraged by your lack of respect for this  
6 Board, demonstrated by your filing for your 271  
7 approval at the FCC before this Board had  
8 finished its deliberations of the merits of this  
9 case. You requested and some might say demanded  
10 that this Board act in December, less than 48  
11 hours after the final papers were filed in this  
12 case.

13 When we declined to act, you went  
14 directly to the FCC and in an attempt to force  
15 our hand by the FCC Rules, if we don't act by  
16 this week, our input will not be considered and  
17 that is not an acceptable option for the State of  
18 New Jersey, not to have its voice heard at the  
19 FCC.

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22

61

23 Your lack of respect for this Board may

1 have profoundly and irrevocably affected the way  
2 citizens of this State and some other decision-  
3 makers view you and I am sorry for that. But, we  
4 are here today after an accelerated analysis and  
5 concentrated evaluation of your filings and the  
6 filings of other participants to render a  
7 decision. A decision that we must render today.

8 But it may not be the clear-cut decision that  
9 you hoped for. But you are going to get a  
10 decision and a decision that you have basically  
11 forced us to render today.

12 In my mind, there are three components  
13 to this decision. Number 1 is the 14-point  
14 checklist and as eloquently described by Director  
15 Centrella, you do comply technically with that  
16 14-point checklist.

17 Checklist Item 2, the option, the  
18 checklist item that refers to availability of  
19 unbundled work elements, which is at the heart of  
20 the competition. We

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1 discussed, my colleague and I have both commented  
2 on the fact that the rates are in place, but the  
3 rates still could be challenged and we have said  
4 that we are conditioning our approval based on  
5 the continuation and effect of those rates.

6           What gives me some level of comfort in  
7 this discussion of competition is that we have  
8 created an environment, a structure that will  
9 promote competition if everyone respects the  
10 rules.

11           If Verizon as well as the CLECs respect  
12 the rules, Verizon will be implementing the UNE  
13 rate and treating these CLECs as the law  
14 required. And the CLECs by entering the market,  
15 despite the long distance competition that this  
16 might precipitate.

17           I am persuaded by the evidence, frankly,  
18 and those other states, some of which Director  
19 Centrella cited and I have looked at the data  
20 from six or eight of the states, and my analysis  
21 indicates that in the six months before and the  
22 twelve

23

3 months after 271 approval, in those states, on  
4 average, the CLECs gained a percent a month of  
5 the local market. On average a percent a month.

6

7 In some places it was 2 1/2 percent, and  
8 some places it was a half a percent and, on  
9 average, it came out to a percent a month the  
10 local market gained by the CLECs in those states  
11 in the ramp-up of six months to 271 approval and  
12 12 months afterwards. I say it is time to start  
13 the clock. And I think we could do that by our  
14 actions today.

15 Point No. 2 which I am going to  
16 subtitle, yes, Verizon, there is a public  
17 interest and we are going to comment on the  
18 public interest. It is our duty to comment on  
19 the public interest. It is our responsibility to  
20 comment on the public interest.

21 Now that having been said, the public  
22 interest is frankly in the eye of the beholder.  
23 I've concluded that the long distance competition

1 and 271 approval

2 by the FCC will bring about a benefit to the  
3 public, both at the long-distance rate level and  
4 in its incenting local competition, and with also  
5 the rate savings that our customers will enjoy.

6 That has been the experience in all the other  
7 states and in any states and in any examples.

8 And I firmly believe that no one  
9 invented behavior. That behavior is repetitive  
10 and almost not predictable but sort of  
11 explicative by other behavior. We're going to  
12 see in this state what it has been observed in  
13 the other states.

14 The third factor, I will conclude my  
15 remarks soon thereafter, the third factor is this  
16 idea of delay which is called for by some of the  
17 participants in the case.

18 Let's wait and see what happens in the  
19 next six months. There is no incentive for  
20 anything to change in the next six months. The  
21 incentive is for this to move forward now and  
22 that they --

23

3    that the behavior will react accordingly. To  
4    delay it to my way of thinking will accomplish  
5    nothing positive and will deny the citizens of  
6    this state the benefits of long-distance  
7    competition-based savings and the investable  
8    benefits of increased local competition and in  
9    the local market.

10            I do not consider delay a viable option.

11    We have talked about the caveats. We talked  
12    about the conditions that we believe need to be  
13    in place. I am going to strengthen that by  
14    saying that I personally will be in contact with  
15    the FCC if anything changes between now and the  
16    45 days more that they have.

17            MR. CENTRELLA: 45 to March 20th, you  
18    mean?

19            COMMISSIONER BUTLER: Yes.

20            Whether it is 60-some-odd days or 45  
21    days. If there is any change, I will personally  
22    contact the FCC and indicate to them my vote cast  
23    today is null and void, in my mind, by the

1 changes that take place. I hope that no changes  
2 do take

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5

67

6 place and I hope we tied up the wording of our --  
7 our wording so that it is clear.

8 One other thing, let me remind Verizon  
9 and any CLECs that we will continue to regulate  
10 the local market that we have another case called  
11 the PAR II case that is not yet been decided and  
12 that -- once that is decided, we are still going  
13 to be regulating the local market and the  
14 behavior of -- behavior of all market  
15 participants including Verizon. This chapter  
16 in the evolution of the Telecom sector in the  
17 State of New Jersey is far from other. Not by --  
18 it is not over by a long shot.

19 So I thank you for your indulgence and  
20 that's -- that concludes my remarks.

21 PRESIDENT HUGHES: Vote?

22 MR. PROVOST: Commissioners, before you  
23 vote, I would just like to add

1 -- make one point, with regard to the condition  
2 that Verizon provide evidence that it is charging  
3 the rates that the Board has decided. The  
4 recommendation is

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7

68

8 that they provide evidence by, I think close of  
9 business tomorrow. Because the order will not  
10 come out until, I think, Monday, we ask that you  
11 direct or authorize the secretary to send a  
12 letter to Verizon explaining that condition.

13 THE SECRETARY: On the motion to approve  
14 the recommendations of Staff including Deputy  
15 Attorney General Provost, Commissioner Butler?

16 COMMISSIONER BUTLER: Yes.

17 THE SECRETARY: President Hughes?

18 PRESIDENT HUGHES: Yes.

19 Thank you.

20 (Whereupon the recommendation was  
21 approved.)

22

23